

2010—05

**OPPOSE THE SALE OR TRANSFER OF MINNESOTA
NATIONAL FOREST LANDS FOR SULFIDE STRIP MINING**

BACKGROUND:

Sale or transfer of national forest land for the purpose of sulfide strip mining is not consistent with the intent of the 1911 Weeks Act. The Weeks Act of March 1, 1911 (Public No. 435.) does not allow strip mining of National Forest Lands. The national forest lands that would be destroyed by this project are protected “to secure the maintenance of a perpetual growth of forest.” The NorthMet project is contrary to the purpose of the Weeks Act. Quoting Henry S. Graves, forester, US Department of Agriculture Forest Service (issued march 27, 1911) on the purpose of the Weeks Act: “The general purpose of this law is to secure the maintenance of a perpetual growth of forest on the watersheds of navigable streams where such growth will materially aid in preventing floods, in improving low waters, in preventing erosion of steep slopes and the silting up of the river channels, and thereby improve the flow of water for navigation. While the improvement of the flow of navigable streams is the fundamental purpose, other benefits incidental in character but nevertheless important will be kept in view. Among these are (1) protection against disastrous erosion of the soil on mountain slopes and against the destruction of the soil and soil cover by forest fires; (2) preservation of water powers, since, like navigation, they depend for their value upon the evenness of streamflow; (3) preservation of the purity and regularity of flow of the mountain streams, with a view to their use for the water supply of towns and cities; (4) preservation of a timber supply to meet the needs of the industries of the country; (5) preservation of the beauty and attractiveness of the uplands for the recreation and pleasure of the people.”

[PUBLIC-NO. 435.] [H. R. 11798]

“AN ACT To enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers.

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the consent of the Congress of the United States is hereby given to each of the several States of the Union to enter into any agreement or compact, not in conflict with any law of the United States, with any other State or States for the purpose of conserving the forests and the water supply of the States entering into such agreement or compact....

...SEC. 9. That such acquisition may in any case be conditioned upon the exception and reservation to the owner from whom title passes to the United States of the minerals and of the merchantable timber, or either or any part of them, within or upon such lands **at the date of the conveyance**, but in every case such exception and reservation and the time within which such timber shall be removed and the rules and regulations under which the cutting and removal of such timber and **the mining and removal of such minerals shall be done shall be expressed in the written instrument of conveyance,...**" (emphasis added)

Passage of single project federal legislation for NorthMet would result in land transfer before completion of the environmental process. According to the proposed 2007 HR 4292/S3411, the U.S. Forest Service would be required to sell 6,700 acres of public land to PolyMet before completion of an Environmental Impact Statement (EIS). This is contrary to the National Environmental Policy Act (1969) and negates the purpose of the EIS, which is to allow for disclosure of environmental impacts of an action and for public input. There is an existing process for the Forest Service to exchange lands with private companies but exchange takes place after review that is open to the public in the form of an Environmental Impact Statement. This bill would circumvent that existing process. The sale would be conducted without the normal public input and without environmental review of the land exchange.

A single project land sale or transfer would be separate from the mine plan review and is contrary to the National Environmental Policy Act (NEPA). No administrative appeal of the sale would have been allowed under HR 4292/S 3411, disregarding public input by specifically denying appeal of the outcome.

The 2007 bill HR 4292/S3411 would have also required that the U.S. Forest Service assume the responsibility for wetland replacement contrary to existing law and rules.

A single project land sale or transfer would be a special favor for the benefit of a single Canadian mining company. A single project land sale or transfer bill would bypass existing law and the normal process by which National Forest land is transferred to private entities through a proven land exchange process, which requires environmental review and verification that the swap is in the public interest. The Forest Service says it cannot allow a strip mine on this forestland because of the environmental protections that currently protect the forest, water and wildlife located there. PolyMet's plans call for a massively destructive open pit strip mine. PolyMet needs to privatize the USFS land before its plans for a copper strip mine can go forward.

The U. S. Forest Service owns less than half of the mineral estate in the Superior National Forest and in the Boundary Waters Canoe Area Wilderness. Likewise, the Forest Service lacks mineral rights to many of its lands nationwide. This bill, if passed, could set precedence for the sale of public lands to private mining companies across the country. It would also open the doors for more than a

dozen other mining companies who are currently exploring the Duluth Complex of rocks throughout Minnesota and other sulfide mineral deposits in the Upper Peninsula of Michigan. These sulfide-bearing rocks encompass an area that extends underneath the Boundary Waters Canoe Area Wilderness and between Voyageurs National Park and Lake Superior, before dipping down into the southern part of the state.

Passage of single project federal legislation for NorthMet would result in ignoring potential harm to the environment enabled by the sale or transfer. The hidden purpose of a land sale or transfer bill would be to remove long standing environmental review and protections from public lands. A sale or transfer under these conditions would create a precedent by which the Superior National Forest could sell public lands each time a mine gets close to the permitting phase. A sale or transfer bill would relieve the Forest Service of their responsibilities to protect public lands in Minnesota. This could become a justification elsewhere; each time a federal land agency chooses to ignore its mandated management responsibilities in order to rapidly facilitate mining operations.

Passage of single project federal legislation for NorthMet would set a precedent for the sale of public lands to mining companies across the nation where the Forest Service does not own the mineral rights to its lands and would pave the way for the sale of public lands throughout Minnesota's Arrowhead Region.

The potential effects of acid mine drainage are serious and have always accompanied this type of mining. Sulfuric acid is a byproduct of metallic sulfide mining and in all previous mines required perpetual treatment of any affected watershed.

Therefore be it resolved the Minnesota Division of the Izaak Walton League of America in convention April 11, 2010 opposes the sale or transfer of Minnesota national forest lands for sulfide ore hard rock strip mining *except under the normal land exchange process*.

Submitted by: Walter J. Breckenridge Chapter